

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PAUL REDWINE,

Plaintiff,

v.

**ABC COKE, a division of
Drummond Company, Inc.,**

Defendant.

2:11-CV-0133-KOB

CONSOLIDATED WITH

MICHAEL WESTON,

Plaintiff,

v.

**ABC COKE, a division of Drummond
Company, Inc.,**

Defendant.

2:11-CV-0134-KOB

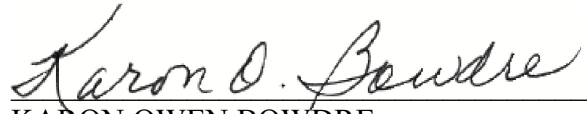
MEMORANDUM OPINION

This matter comes before the court on Defendant ABC Coke's Motion for Summary Judgment (doc. 24). The parties fully briefed the motion and the court held a hearing on the motion on Monday, August 6, 2012. For the reasons stated on the record, the court finds that the Plaintiffs Paul Redwine and Michael Weston have failed to establish a *prima facie* case of racial discrimination because they failed to show a similarly situated comparator who was nearly identical in quality of conduct. Even had they done so, ABC Coke offered a legitimate, non-discriminatory reason for terminating Redwine and Weston—Locklear's loss of confidence in their ability to respond to an emergency situation and, in Redwine's case, Redwine's failure to

acknowledge his mistakes on the night of the explosion at the Beckers battery. Finally, the court found that Weston was judicially estopped from asserting his Title VII claims because he failed to list his EEOC Charge on his amended schedule of assets when he converted his bankruptcy petition to a Chapter 7 petition.

Therefore, the court GRANTS the Motion for Summary Judgment, and ENTERS JUDGMENT in favor of the Defendant and against Plaintiffs Michael Weston and Paul Redwine on their single claim of race discrimination under Title VII and § 1981.¹ Costs are taxed against the Plaintiffs.

DONE and ORDERED this 9th day of August, 2012.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE

¹ Although Count One of the Complaint is titled “Race Discrimination and Retaliation,” the Plaintiffs conceded at the hearing that the inclusion of “Retaliation” in Count One was an error.